

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. Action No.: 2:20-CR-36
(Judge KleeH)

JOSE LUIS ROBERTO OSORNIO-ORTEGA,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
CONCERNING PLEA OF GUILTY IN FELONY CASE [DKT. NO. 25],
AND ACCEPTING GUILTY PLEA

On May 3, 2021, the Defendant, Jose Luis Roberto Osornio-Ortega ("Osornio-Ortega"), along with the US Federal Certified Court Interpreter and Translator, appeared before United States Magistrate Judge Michael J. Aloï and moved for permission to enter a plea of **GUILTY** to Count One of the Indictment, charging him with Reentry of a Removed Alien, in violation of Title 8, United States Code, Section 1326(a). Osornio-Ortega stated that he understood that the magistrate judge is not a United States District Judge, and Osornio-Ortega consented to pleading before the magistrate judge. This Court referred Osornio-Ortega's plea of guilty to the magistrate judge for the purpose of administering the allocution, pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted.

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Based upon Osornio-Ortega's statements during the plea hearing, and the Government's proffer establishing that an independent factual basis for the plea existed, the magistrate judge found that Osornio-Ortega was competent to enter a plea, that the plea was freely and voluntarily given, that Osornio-Ortega was aware of the nature of the charges against him and the consequences of his plea, and that a factual basis existed for the tendered plea. The magistrate judge issued a *Report and Recommendation Concerning Plea of Guilty in Felony Case* ("R&R") [Dkt. No. 25] finding a factual basis for the plea and recommending that this Court accept Osornio-Ortega's plea of guilty to Count One of the Indictment.

The magistrate judge **remanded** Defendant to the custody of the United States Marshals Service.

The magistrate judge also directed the parties to file any written objections to the R&R within fourteen (14) days after service of the R&R. He further advised that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the R&R. Neither Osornio-Ortega nor the Government filed objections to the R&R.

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Accordingly, this Court **ADOPTS** the magistrate judge's R&R [Dkt. No. 25], provisionally **ACCEPTS** Osornio-Ortega's guilty plea, and **ADJUDGES** him **GUILTY** of the crime charged in Count One of the Indictment.

Pursuant to Fed. R. Crim. P. 11(c)(3) and U.S.S.G. § 6B1.1(c), the Court **DEFERS** acceptance of the proposed plea until it has received and reviewed the modified presentence investigation report prepared in this matter.

By separate Order, the Court scheduled the sentencing hearing for June 9, 2021. [Dkt. No. 27].

The Court further **ORDERS** that prior to sentencing, counsel for Defendant review with him the revised Standard Probation and Supervised Release Conditions adopted by this Court on November 29, 2016, pursuant to the standing order entered by Chief Judge Groh, In Re: Revised Standard Probation and Supervised Release Conditions, 3:16-MC-56.

It is so **ORDERED**.

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The Clerk is directed to transmit copies of this Order to
counsel of record and all appropriate agencies.

DATED: May 19, 2021

/s/ Thomas S. Kleeh
THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE